

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SECOND APPEAL No 31 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE K.M.MEHTA

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

GUJARAT ELECTRICITY BOARD

Versus

AMTEX FABRICS

Appearance:

MR MD PANDYA for Petitioners
NOTICE SERVED for Respondent No. 1

CORAM : MR.JUSTICE K.M.MEHTA

Date of decision: 04/02/2000

ORAL JUDGEMENT

1. The Gujarat Electricity Board has filed this
Second appeal against the decree of the Second Extra
Assistant Judge, Rajkot District at Gondal rejecting the
Regular Civil Appeal No.39/98 and confirming the decree

of the Ld.Civil Judge (JD) at Jetpur, dated 30.1.1997 decreeing the Regular Civil Suit No.262/93 filed by M/s Amtex Fabrics-the original plaintiff. The appeal was admitted by this court (Coram:K.R.Vyas,J) and the court has framed the following substantial questions of law:

(A) Whether on the facts and circumstances of the case and keeping in view the judicial pronouncement of the Apex Court in the matter of Punjab State Electricity Board vs Ashwinkumar reported in (1977) 5 SCC 120 the courts below have erred in not holding that the civil court was not justified in entertaining the suit and grant relief when the conditions of supply framed in exercise of statutory powers has provided an alternative remedy of appeal to the Appellate Committee and by necessary implication has excluded the cognizance of the civil cause without directing the plaintiff to avail of the remedy provided as stated above.

(B) Whether in the light of documentary evidence on record the finding recorded by the courts below on the legality of the demand is unsustainable or perverse.?"

2. When the matter reached this court learned counsel appearing for appellants stated that the original plaintiff has already addressed a letter to the Registrar of Gujarat High Court dated 22.1.2000 stating that the plaintiff has deposited Rs.7,000/- on 7.7.99 and hs also produced copy of the receipt along with copy of said letter which was served on the Ld.advocate for the appellant on 31.1.2000. It has been stated that the amount of Rs.7,000/- has been paid towards full and final settlement.

3. Under the circumstances, the learned counsel for the respondents submitted that in view of the financial difficulty the appellant may be directed to reduce their claim to Rs.2,000/-. Accordingly the learned counsel for the appellant is requested to take necessary steps to reduce the original claim.

4. In view of the aforesaid, learned counsel for appellant seeks permission to withdraw the second appeal.Permission granted. Second appeal stands disposed of as withdrawn. No order as to costs.

4.2.2000 (K.M.MEHTA, J)